

1 EDMUND G. BROWN JR., Attorney General  
of the State of California  
2 FRANK H. PACOE  
Supervising Deputy Attorney General  
3 JONATHAN D. COOPER, State Bar No. 141461  
Deputy Attorney General  
4 California Department of Justice  
455 Golden Gate Avenue, Suite 11000  
5 San Francisco, CA 94102-7004  
Telephone: (415) 703-1404  
6 Facsimile: (415) 703-5480

7 Attorneys for Complainant

8 **BEFORE THE**  
9 **CALIFORNIA BOARD OF OCCUPATIONAL THERAPY**  
10 **DEPARTMENT OF CONSUMER AFFAIRS**  
11 **STATE OF CALIFORNIA**

12 In the Matter of the Statement of Issues Against:

Case No. AR 2007-381

13 **DEBORAH ANN RYAN**

OAH No.

14 17967 Walnut Road  
15 Castro Valley, CA 94546

**STATEMENT OF ISSUES**

Respondent.

Complainant alleges:

**PARTIES**

1. Heather Martin (Complainant) brings this Statement of Issues solely in her  
official capacity as the Executive Officer of the California Board of Occupational Therapy,  
Department of Consumer Affairs.

2. On or about April 30, 2008, the California Board of Occupational  
Therapy, Department of Consumer Affairs, received an application for an Occupational Therapy  
Assistant Certificate from Deborah Ann Ryan (Respondent). On or about April 28, 2008,  
Deborah Ann Ryan certified under penalty of perjury to the truthfulness of all statements,  
answers, and representations in the application. The application was denied on or about  
September 5, 2008.

**JURISDICTION**

3. This Statement of Issues is brought before the California Board of  
Occupational Therapy, Department of Consumer Affairs, under the authority of the following

1 laws. All section references are to the Business and Professions Code unless otherwise indicated.

2 **STATUTORY PROVISIONS**

3 4. Section 480 of the Code states:

4 (a) A board may deny a license regulated by this code on the grounds that the  
5 applicant has one of the following:

6 (1) Been convicted of a crime. A conviction within the meaning of this section  
7 means a plea or verdict of guilty or a conviction following a plea of nolo contendere. Any action  
8 which a board is permitted to take following the establishment of a conviction may be taken  
9 when the time for appeal has elapsed, or the judgment of conviction has been affirmed on appeal,  
10 or when an order granting probation is made suspending the imposition of sentence, irrespective  
11 of a subsequent order under the provisions of Section 1203.4 of the Penal Code.

12 (2) Done any act involving dishonesty, fraud or deceit with the intent to  
13 substantially benefit himself or another, or substantially injure another; or

14 (3) Done any act which if done by a licensee of the business or profession in  
15 question, would be grounds for suspension or revocation of license.

16 The board may deny a license pursuant to this subdivision only if the crime or act  
17 is substantially related to the qualifications, functions or duties of the business or profession for  
18 which application is made.

19 (b) Notwithstanding any other provision of this code, no person shall be denied a  
20 license solely on the basis that he has been convicted of a felony if he has obtained a certificate of  
21 rehabilitation under Section 4852.01 and following of the Penal Code or that he has been  
22 convicted of a misdemeanor if he has met all applicable requirements of the criteria of  
23 rehabilitation developed by the board to evaluate the rehabilitation of a person when considering  
24 the denial of a license under subdivision (a) of Section 482.

25 (c) A board may deny a license regulated by this code on the ground that the  
26 applicant knowingly made a false statement of fact required to be revealed in the application for  
27 such license.

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5. Section **2570.28** of the Code states, in pertinent part:

The board may deny or discipline a licensee for any of the following:

• • •

(e) Conviction of a crime or of any offense substantially related to the qualifications, functions, or duties of a licensee, in which event the record of the conviction shall be conclusive evidence thereof.

• • •

(o) Committing any act that would be grounds for denial of a license under Section 480.

6. Section **2570.29** of the Code states, in pertinent part:

In addition to other acts constituting unprofessional conduct within the meaning of this chapter, it is unprofessional conduct for a person licensed under this chapter to do any of the following:

• • •

(b) Use to an extent or in a manner dangerous or injurious to himself or herself, to any other person, or to the public, or that impairs his or her ability to conduct with safety to the public the practice authorized by his or her license, of any of the following:

(1) A controlled substance as defined in Division 10 (commencing with Section 11000) of the Health and Safety Code.

(2) A dangerous drug or dangerous device as defined in Section 4022.

(3) Alcoholic beverages.

(c) Be convicted of a criminal offense involving the prescription, consumption, or self-administration of any of the substances described in subdivisions (a) and (b) of this section, or the possession of, or falsification of a record pertaining to, the substances described in subdivision (a) of this section, in which event the record of the conviction is conclusive evidence thereof.

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1 **FIRST CAUSE FOR DENIAL OF APPLICATION**

2 (Criminal Convictions)

3 7. Respondent's application is subject to denial under Code sections  
4 480(a)(1) and 2570.28(e) in that she has been convicted of crimes substantially related to the  
5 qualifications, functions, or duties of an occupational therapy assistant. The circumstances are as  
6 follows:

7 a. In or about 1988, in San Mateo Superior Court, Respondent was convicted  
8 of having violated California Vehicle Code section 23152(b) (driving with excessive blood  
9 alcohol level).

10 b. On or about November 25, 1992, in San Mateo Superior Court case  
11 number SM243862A, Respondent was convicted of having violated California Vehicle Code  
12 section 23152(b) (driving with excessive blood alcohol level).

13 c. On or about June 15, 2006, in Alameda Superior Court case number  
14 391806, Respondent was convicted of having violated California Vehicle Code section 23152(a)  
15 (driving under the influence of alcohol). Respondent's blood alcohol level at the time of the  
16 offense was .42%. Respondent was placed on a three-year grant of probation.

17 **SECOND CAUSE FOR DENIAL OF APPLICATION**

18 (Alcohol Related Convictions)

19 8. Respondent's application is subject to denial under Code sections  
20 480(a)(3) and 2570.29(c) in that she has been convicted of criminal offenses involving the  
21 consumption or self-administration of alcohol, as set forth above in paragraph 7 and its subparts.

22 **THIRD CAUSE FOR DENIAL OF APPLICATION**

23 (Dangerous Use of Alcohol)

24 9. Respondent's application is subject to denial under Code sections  
25 480(a)(3) and 2570.29(b) in that she has used alcohol to an extent or in a manner dangerous or  
26 injurious to herself, to any other person, or to the public, or that impaired her ability to conduct  
27 with safety to the public the practice of an occupational therapy assistant. The circumstances are  
28 as follows:

1 a. The convictions set forth above in paragraph 7 and its subparts are  
2 realleged and incorporated herein by reference.

3 b. Respondent has admitted that after her third alcohol-related conviction on  
4 June 15, 2006, in Alameda Superior Court case number 391806, she continued to consume  
5 alcohol, in violation of the terms of her probation, until December, 2007.

6 **PRAYER**

7 WHEREFORE, Complainant requests that a hearing be held on the matters herein  
8 alleged, and that following the hearing, the California Board of Occupational Therapy,  
9 Department of Consumer Affairs, issue a decision:

- 10 1. Denying the application of Deborah Ann Ryan for an Occupational  
11 Therapy Assistant Certificate;  
12 2. Taking such other and further action as is necessary and proper.

13  
14 DATED: October 17, 2008

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16 \_\_\_\_\_  
17 Heather Martin  
18 Executive Officer  
19 California Board of Occupational Therapy  
20 Department of Consumer Affairs  
21 State of California  
22 Complainant  
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